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March 28, 2013

Jocelyn D. Boyd, Esquire
Chief Clerk and Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210

RE: Application of 365 Wireless, LLC for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services and for Local Service Offerings to be Regulated in accordance with Procedures Authorized for NewSouth Communications in Order No. 98-165 in Docket No. 97-467-C; and for Interexchange Service Offerings to be Regulated in Accordance with Procedures Established for Alternative Regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-166-C
Docket No. 2013-77-C

Dear Ms. Boyd:

Enclosed please find for filing a Motion for Protective Treatment and Exhibit C under seal. By copy of this letter, I am serving the Office of Regulatory Staff ("ORS") with a copy of the Motion and separately, I am providing ORS with a confidentiality agreement so as to permit me to provide a copy of the confidential materials for its review.

If you have any questions, or if I may provide you with any additional information, please do not hesitate to contact me.

Sincerely,

Elliott & Elliott, P.A.

Scott Elliott

SE/mlw
Enclosures

cc: Josh M. Minges, Esquire (via email)
Courtney D. Edwards, Esquire w/enc.
Tony D. Cash, Esquire (without enc.)

RECEIVED
2013 APR - 1 PM 12:21
SC PUBLIC SERVICE
COMMISSION

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

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2013 APR -1 PM 12: 21
SC PUBLIC SERVICE
COMMISSION

IN RE:

Application of 365 Wireless, LLC for a)
Certificate of Public Convenience and Necessity)
to Provide Interexchange and Local Exchange)
Telecommunications Services and for Local)
Service Offerings to be Regulated in Accordance)
with Procedures Authorized for NewSouth)
Communications in Order No. 98-165 in)
Docket No. 97-467-C; and for Interexchange)
Service Offerings to be Regulated in Accordance)
with Procedures Established for Alternative)
Regulation in Order Nos. 95-1734 and 96-55)
in Docket No. 95-166-C)

Docket No.: 2013-77-C

**MOTION FOR PROTECTIVE TREATMENT AND
BASIS FOR FILING EXHIBIT C AS TRADE SECRET**

Introduction

365 Wireless, LLC ("Applicant" or "365 Wireless"), by its undersigned attorney and pursuant to S.C. Code Ann. § 39-8-10, *et seq.*, and all other applicable rules, statutes and regulations, hereby files this Motion for Protective Treatment ("Motion") in the above-captioned proceeding. By this Motion, the Applicant seeks protective treatment by the South Carolina Public Service Commission ("Commission"), of certain commercially-sensitive financial statements attached as *Exhibit C*, filed as Trade Secret to the Application of 365 Wireless, LLC for a Certificate of Public Convenience and Necessity for Authority to Provide Basic Resold Interexchange Telecommunications Services in the State of South Carolina. Because this Motion is an inseparable part of the Application, it is being filed concurrently therewith.

In support of this Motion, the Applicant provides the following:

1. The exact legal name, address and telephone number of the Applicant is:

365 Wireless, LLC
1500 Trotters Cove
Atlanta, GA 30338
Telephone: 888-820-4544
Email: tony@365wireless.net

2. Correspondence or communications regarding this Motion should be addressed to:

Scott Elliott, Esquire
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC, 29201
Tel: 803-771-0555
Fax: 803-771-8010
Email: selliott@elliottlaw.us

Copy to: Tony D. Cash, Esquire
365 Wireless, LLC
1500 Trotters Cove
Atlanta, GA 30338
Tel: 888-820-4544
Email: tony@365wireless.net

I. Description of Confidential Information.

1. The Application requires the Applicant to disclose evidence of financial fitness through the submission of documentation of its financial resources and ability to provide the requested service. In conformity with this requirement, the Applicant submits copies of its financial statements. These documents contain highly confidential and strictly proprietary information, the public disclosure of which may result in direct, immediate and substantial harm to the competitive position of the Applicant in South Carolina and elsewhere.

II. Grounds for Claim of Confidentiality.

1. The Applicant is presently immune from a legal obligation to prepare or submit projected financial statements, or any other financial information, to any public entity. As such, the financial statements attached as *Exhibit C* to the Application are not readily available to persons external to Applicant.

2. Because the projected financial statements submitted by the Applicant in support of

the Application contain confidential and commercially-sensitive information from which its competitors may derive economic value, the Applicant seeks to protect such material from public disclosure. The Applicant derives independent economic value from the fact that significant, detailed and proprietary information regarding its financial structure and current financing activities is unknown to its competitors. As such, the Company's financial statements are a "trade secret" as that term is used in South Carolina Trade Secrets Act. *S.C. Code Section 39-8-20(5)*. Given this fact, the disclosure of this information could provide existing and potential competitors, including interexchange carriers ("DCCs") in South Carolina, as well as in other states in which the Applicant provides or intends to provide telecommunications service, with an unfair and undeserved competitive advantage.

3. The Applicant clarifies herein that its request for protection applies only to the documents attached as *Exhibit C* to the Application. The Applicant is not seeking protection of any type for those reports the Applicant is required to file with the Office of Regulatory Staff ("ORS") should the relief sought in the Application be granted: the Annual Report Form, Gross Receipts Report, and Universal Service Fund Worksheet.

CONCLUSION

1. The financial information included in support of the Applicant's Application, for which Confidential Treatment is sought, is both proprietary and competitively-sensitive. The substantial and direct harm that could be caused to the Applicant as a result of any disclosure is real and not speculative. Moreover, to date, no other jurisdiction or governmental agency has required the Applicant to make this information available to the public. For all these reasons, the financial statements attached as *Exhibit C* to the Application should be protected from public disclosure by the Commission.

WHEREFORE, the Applicant respectfully requests that the South Carolina Public Service Commission grant this Motion for Protective Treatment with respect to the financial statements attached as *Exhibit C* to the Application of 365 Wireless, LLC for a Public Convenience and Necessity for Authority to Provide Basic Resold Local Telecommunications Services in the State of South Carolina filed *under seal* as Confidential in this proceeding.

Dated this 27 day of March 2013.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Scott Elliott', written over a horizontal line.

Scott Elliott, Esquire
ELLIOTT & ELLIOTT, P.A.
1508 Lady Street
Columbia, SC 29201
Telephone: 803-771-0555
Fax: 803-771-8010
selliott@elliottlaw.us

Attorney for Applicant

CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Application of 365 Wireless, LLC for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services and for local service offerings to be regulated in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in Docket No. 97-467-C; and for interexchange service offerings to be regulated in accordance with procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

DOCKET NO.: 2013-77 -C

PARTIES SERVED: Courtney D. Edwards, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

PLEADING: MOTION FOR PROTECTIVE TREATMENT

March 28, 2013



Marcia W. Walters, Legal Assistant